

Before the
Federal Communications Commission
Washington, D.C. 20554

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|---------------------------------|---|------------------------|
| In the Matter of |) | File No. EB-08-SE-1061 |
| |) | |
| Cablevision Systems Corporation |) | Acct No. 201032100021 |
| |) | |
| |) | FRN No. 0003511649 |

ORDER

Adopted: March 12, 2010

Released: March 12, 2010

By the Chief, Enforcement Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Enforcement Bureau (“Bureau”) and Cablevision Systems Corporation (“Cablevision”). The Consent Decree terminates an investigation by the Bureau into Cablevision’s possible violations of Section 76.1603(c) of the Commission’s Rules, regarding provision of advanced written notice to subscribers and local franchise authorities prior to implementing any service change.¹

2. The Bureau and Cablevision have negotiated the terms of the Consent Decree that resolves this matter. A copy of the Consent Decree is attached hereto and incorporated by reference.

3. After reviewing the terms of the Consent Decree and evaluating the facts before us, we find that the public interest would be served by adopting the Consent Decree which terminates the investigation.

4. Based on the record before us, we conclude that our investigation raises no substantial or material questions of fact as to whether Cablevision possesses the basic qualifications, including those related to character, to hold or obtain any Commission license or authorization.

5. Accordingly, **IT IS ORDERED** that, pursuant to section 4(i) of the Communications Act of 1934, as amended,² and sections 0.111 and 0.311 of the Commission’s Rules,³ the Consent Decree attached to this Order **IS ADOPTED**.

6. **IT IS FURTHER ORDERED** that the above-captioned investigation **IS TERMINATED**.

¹ 47 C.F.R. § 76.1603(c).

² 47 U.S.C. § 154(i).

³ 47 C.F.R. §§ 0.111, 0.311.

7. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent by first class mail and certified mail, return receipt requested, to Paul Jamieson, Managing Counsel, Legislative and Regulatory Affairs, Cablevision Systems Corporation, 1111 Stewart Avenue, Bethpage, New York 11714-3581 and to counsel for Cablevision Systems Corporation: Howard J. Symons, Esq., Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C., 701 Pennsylvania Avenue, N.W., Washington, DC 20004.

FEDERAL COMMUNICATIONS COMMISSION

P. Michele Ellison
Chief, Enforcement Bureau

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CONSENT DECREE

The Enforcement Bureau (“Bureau”) and Cablevision Systems Corporation (“Cablevision”), by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Bureau’s investigation into whether Cablevision deployed switched digital video (“SDV”) technology in various cable systems in violation of Commission Rules (“Rules”) requiring advance written notice to local franchising authorities (“LFAs”).¹

I. DEFINITIONS

1. For the purposes of this Consent Decree, the following definitions shall apply:
 - (a) “Act” means the Communications Act of 1934, as amended, 47 U.S.C. §151 *et seq.*
 - (b) “Adopting Order” means an Order of the Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.
 - (c) “Bureau” means the Enforcement Bureau of the Federal Communications Commission.
 - (d) “Cablevision” means Cablevision Systems Corporation, its predecessors-in-interest and corporate successors-in-interest.
 - (e) “Commission” and “FCC” mean the Federal Communications Commission and all of its bureaus and offices.
 - (f) “Effective Date” means the date on which the Bureau releases the Adopting Order.
 - (g) “Investigation” means the investigation regarding whether Cablevision may have violated Section 76.1603 of the Rules by failing to provide timely written notice to LFAs where Cablevision deployed SDV technology during the period between April, 2008 and the Effective Date.
 - (h) “Parties” means Cablevision and the Bureau.

¹ 47 C.F.R. § 76.1603(c).

- (i) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations.
- (j) “UDCPs” are unidirectional digital cable products.

II. BACKGROUND

2. Section 76.1603(c) of the Rules requires cable systems to provide thirty (30) days written notice to both subscribers and LFAs before implementing any rate or service change.² On October 24, 2008, the Bureau sent Cablevision a Letter of Inquiry (LOI) investigating Cablevision’s use of SDV technology to deliver certain cable programming, including the extent to which Cablevision provided advance notice to subscribers and LFAs where its use of SDV technology to deliver programming that was previously transmitted in a one-way format rendered such programming inaccessible via unidirectional digital cable products (“UDCPs”) absent additional equipment. On November 7, 2008, Cablevision responded to the Bureau’s LOI. Cablevision’s response asserted that it had provided proper notice to subscribers.

3. On March 31, 2009, the Parties entered into a Tolling Agreement to provide additional time for examination of the matters covered by the Investigation until July 15, 2009.³ On July 10, 2009 and again on January 4, 2010, the Parties extended the Tolling Agreement to allow for further discussions regarding a resolution of this proceeding.⁴

III. TERMS OF AGREEMENT

4. **Adopting Order**. The Parties agree that the provisions of this Consent Decree shall be subject to final approval by the Bureau by incorporation of such provisions by reference in the Adopting Order without change, addition, modification, or deletion.

5. **Jurisdiction**. Cablevision agrees that the Bureau has jurisdiction over it and the matters contained in this Consent Decree and has the authority to enter into and adopt this Consent Decree.

6. **Effective Date; Violations**. The Parties agree that this Consent Decree shall become effective on the date on which the Bureau releases the Adopting Order. Upon release, the Adopting Order and this Consent Decree shall have the same force and effect as any other Order of the Bureau. Any violation of the Adopting Order or of the terms of this Consent Decree shall constitute a separate violation of a Bureau Order, entitling the Bureau to exercise any rights and remedies attendant to the enforcement of a Commission Order.

² *Id.*

³ Tolling Agreement, File No. EB-08-SE-161, executed by and between Kathryn S. Berthot, Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, and Michael Olsen, Vice-President, Law and Government Affairs, Cablevision Systems Corporation (March 31, 2009) (“Tolling Agreement”).

⁴ Tolling Agreement Extension, File No. EB-07-SE-352, executed by and between Kathryn S. Berthot, Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, and Paul Jamieson, Managing Counsel, Legislative and Regulatory Affairs, Cablevision Systems Corporation (July 10, 2009) (“July Tolling Agreement Extension”); Tolling Agreement Extension, File No. EB-08-SE-1061, executed by and between Kathryn S. Berthot, Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, and Paul Jamieson, Managing Counsel, Legislative and Regulatory Affairs, Cablevision Systems Corporation (January 4, 2010) (“January Tolling Agreement Extension”).

7. **Termination of Investigation**. In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of public resources, the Bureau agrees to terminate the Investigation. In consideration for the termination of the Investigation, Cablevision agrees to the terms, conditions, and procedures contained herein. The Bureau further agrees that in the absence of new material evidence, the Bureau will not use the facts developed in this Investigation, or the existence of this Consent Decree, to institute, on its own motion, any new proceeding, formal or informal, or take any action on its own motion against Cablevision concerning the matters that were the subject of the Investigation. The Bureau also agrees that it will not use the facts developed in the Investigation, or the existence of this Consent Decree, to institute on its own motion any proceeding, formal or informal, or take any action on its own motion against Cablevision with respect to Cablevision's basic qualifications, including its character qualifications, to be a Commission licensee or to hold Commission licenses or authorizations.⁵

8. **Future Compliance**. For purposes of settling the matters set forth herein, Cablevision agrees to make the following commitments regarding its compliance with Section 76.1603:

(a) **Compliance Measures**.

(1) Cablevision shall provide advance written notice pursuant to Section 76.1603 to each LFA where its use of SDV technology to deliver programming that was previously transmitted in a one-way format renders such programming inaccessible via UDCPs absent additional equipment.

(2) Cablevision has instituted internal compliance measures in each of its operating units in which deployment of SDV is contemplated to ensure that adequate procedures are implemented and executed in order to satisfy the notice requirements of Section 76.1603 of the Rules. Specifically, Cablevision has developed procedures to ensure that it notifies all affected subscribers and all relevant LFAs at least 30 days in advance of using SDV technology to deliver programming that was previously transmitted in a one-way format, including the following:

-- Before a Cablevision system initiates a deployment of SDV technology that involves the delivery of programming services previously made available in a one-way format, the system must prepare customized letters to UDCP subscribers and LFAs using letter templates prepared by Cablevision's Law Department;

-- The notice letters then must be submitted for approval by the Law Department, and final approval for the SDV deployment plan cannot be obtained until the updated notice letters have undergone this review;

-- Following approval of the notice letters, they must be distributed at least 30 days before the SDV deployment plan may be executed.

(3) Cablevision will file a compliance report with the Commission on April 1, 2011. The compliance report shall include a compliance certificate from an officer, as an

⁵ In this regard, Cablevision will not be obligated to report this matter, including as an adverse finding or adverse final action, on any Commission application or form.

agent of Cablevision, stating that the officer has personal knowledge that Cablevision has maintained operating procedures intended to ensure compliance with this Consent Decree, together with an accompanying statement explaining the basis for the officer's compliance certification. The compliance report shall be submitted to Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554.

- (b) **Termination Date.** Unless otherwise stated, the requirements of this Consent Decree will expire twenty-four (24) months after the Effective Date. The termination of this Consent Decree shall not have any effect on Cablevision's independent obligation to comply with Section 76.1603, to the extent that it remains applicable.

9. **Voluntary Contribution.** Cablevision agrees that it will make a voluntary contribution to the United States Treasury in the amount of twenty-five thousand dollars (\$25,000). The payment shall be made within thirty (30) calendar days after the Effective Date. The payment must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the Account Number and FRN Number referenced in the caption to the Adopting Order. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payment by wire transfer may be made to ABA Number 02130004, receiving bank TREAS/NYC, and account number 27000001. For payment by credit card, an FCC Form 159 (Remittance Advice) must be submitted. When completing the FCC Form 159, enter the Account number in block number 23A (call sign/other ID), and enter the letters "FORF" in block number 24A (payment type code). Cablevision will also send electronic notification on the date said payment is made to JoAnn Lucanik at JoAnn.Lucanik@fcc.gov and Linda M. Nagel at Linda.Nagel@fcc.gov.

10. **Waivers.** Cablevision waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Adopting Order, provided the Bureau issues an Adopting Order adopting the Consent Decree without change, addition, modification or deletion. Cablevision shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein. If either Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Adopting Order, neither Cablevision nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and Cablevision shall waive any statutory right to a trial *de novo*. Cablevision hereby agrees to waive any claims it may otherwise have under the Equal Access to Justice Act, 5 U.S.C. § 504 and 47 C.F.R. § 1.1501 *et seq.*, relating to the matters addressed in this Consent Decree.

11. **Invalidity.** In the event that this Consent Decree in its entirety is rendered invalid by any court of competent jurisdiction, it shall become null and void and may not be used in any manner in any legal proceeding.

12. **Subsequent Rule or Order.** The Parties agree that if any provision of the Consent Decree conflicts with any subsequent Rule or Order adopted by the Commission (except an Order specifically intended to revise the terms of this Consent Decree to which Cablevision does not expressly consent) that provision will be superseded by such Commission Rule or Order.

13. **Successors and Assigns.** Cablevision agrees that the provisions of this Consent Decree shall be binding on its successors, assigns, and transferees.

14. **Final Settlement.** The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties, and shall discharge any and all liability arising from the Investigation. The Parties further agree that this Consent Decree does not constitute either an adjudication on the merits or a factual or legal finding or determination regarding any compliance or noncompliance with the requirements of the Act or the Commission's Rules and Orders and that by agreeing to this Consent Decree Cablevision does not admit or deny noncompliance, violation or liability for violating the Act or rules in connection with the matters that are the subject of this Consent Decree.

15. **Modifications.** This Consent Decree cannot be modified without the advance written consent of both Parties.

16. **Paragraph Headings.** The headings of the Paragraphs in this Consent Decree are inserted for convenience only and are not intended to affect the meaning or interpretation of this Consent Decree.

17. **Authorized Representative.** Each Party represents and warrants to the other that it has full power and authority to enter into this Consent Decree.

18. **Counterparts.** This Consent Decree may be signed in any number of counterparts (including by facsimile), each of which, when executed and delivered, shall be an original, and all of which counterparts together shall constitute one and the same fully executed instrument.

P. Michele Ellison
Chief
Enforcement Bureau

Date

Michael Olsen
Vice President, Law and Government Affairs
Cablevision Systems Corporation

Date